

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**

SONY MUSIC ENTERTAINMENT, ET AL.,

Plaintiffs,

v.

COX COMMUNICATIONS, INC. AND  
COXCOM, LLC.

Defendants.

**Case No. 1:18-cv-00950-LO-JFA**

**DECLARATION OF CESIE C.  
ALVAREZ IN SUPPORT OF  
COX'S MOTION TO EXCLUDE  
THE TESTIMONY OF PUTATIVE  
EXPERT BARBARA  
FREDERIKSEN-CROSS**

I, Cesie C. Alvarez, hereby declare:

1. I am an associate at the law firm Winston & Strawn LLP, counsel to Defendants Cox Communications, Inc. and CoxCom, LLC (collectively, "Cox") and represent Cox in the above-captioned matter. I submit this Declaration in support of Cox's Motion to Exclude the Testimony of Putative Expert Barbara Frederiksen-Cross. I have personal knowledge of all facts stated in this declaration, unless otherwise stated, and if called upon as a witness, I could and would competently testify thereto.

2. On March 25, 2019 Plaintiffs produced a spreadsheet with Bates No. Plaintiffs\_00286431 (the "'431 Spreadsheet") with metadata in the spreadsheet's "info" field. A true and correct copy of the '431 Spreadsheet is attached hereto as **Exhibit A**. Cox intends to seek leave to submit this file to the Court via hard drive, as it is impracticable to file it electronically due to its size and formatting. A service copy of the native file will be provided to Plaintiffs via hard drive upon the filing of this declaration.

3. A screenshot of the '431 Spreadsheet's metadata is attached hereto as **Exhibit B**. I

captured the screenshot of the '431 Spreadsheet metadata by opening a native version of the '431 Spreadsheet, navigating to the spreadsheet's "info" field, and capturing an image of the metadata in the "info" field using the Snipping Tool application. As evidenced in the screenshot, the '431 Spreadsheet was [REDACTED].

4. **Exhibit C** a true and correct copy of the native excel spreadsheet produced by MarkMonitor with Bates No. MM000236, sorted by [REDACTED]. Cox intends to seek leave to submit this file to the Court via hard drive, as it is impracticable to file it electronically due to its size and formatting. A service copy of the native file will be provided to Plaintiffs via hard drive upon the filing of this declaration.

5. Cox recently filed this same document in support of its Motion to Preclude Plaintiffs' Use of Certain Evidence, ECF. No. 241, #12-Exhibit K. As demonstrated in the supporting Declaration of Diana H. Leiden, ECF No. 239, Ms. Leiden sorted the spreadsheet and observed that [REDACTED]

[REDACTED]

[REDACTED]

6. Attached hereto as **Exhibit D** is a true and correct copy of Expert Report of Plaintiffs' Expert Barbara Frederiksen-Cross, served on April 10, 2019.

7. Attached hereto as **Exhibit E** is a true and correct copy of the Supplemental and

Reply Report of Plaintiffs' Expert Barbara Frederiksen-Cross, served on June 13, 2019.

8. Attached hereto as **Exhibit F** is a true and correct copy of excerpts from the deposition transcript of Ms. Frederiksen-Cross, taken on June 28, 2019.

9. Attached hereto as **Exhibit G** is a true and correct copy of Cox's expert, Dr. Nick Feamster's Rebuttal Report, dated May 15, 2019.

10. Attached hereto as **Exhibit H** is a true and correct copy of excerpts from the deposition Slawomir Paszkowski, taken on July 2, 2019, who was designated as Plaintiffs' 30(b)(6) witness on technical topics, including how MarkMonitor collected the evidence packages during the relevant time period.

11. Attached hereto as **Exhibit I** is a true and correct copy of excerpts from the deposition of Audible Magic through its 30(b)(6) witness Vance Ikezoye, taken on May 6, 2019.

12. Attached hereto as **Exhibit J** is a true and correct copy of the document titled "P2P Enforcement Process" produced by MarkMonitor as Bates No. MM000189.

13. Attached hereto as **Exhibit K** is a true and correct copy of the 2011 Master Agreement between the RIAA and MarkMonitor (formerly DtecNet, Inc.), produced by the RIAA in this action as Bates No. RIAA\_00000003.

14. Attached as **Exhibit L** is a true and correct copy of the November 1, 2012 Independent Assessment of MarkMonitor AntiPiracy Methodologies by Stroz Friedberg. This document was made available to the public.

15. Attached as **Exhibit M** is a true and correct copy of the November 13, 2012 OEM Application Programming Guide and Customer Support Information produced by Audible Magic as Bates No. AUDIBLE-MAGIC-00000003.

I declare under penalty of perjury under the laws of the United States of America that the

foregoing is true and correct.

Executed this 30<sup>th</sup> day of August, 2019 in New York, New York.

/s/ Cesie C. Alvarez  
Cesie C. Alvarez